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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,112	12/29/2000	Robert J. Duncan	061473 0270171	8220

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EXAMINER	
NGUYEN, VAN H	

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/752,112	DUNCAN ET AL.	
	Examiner	Art Unit	
	VAN H. NGUYEN	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the amendment filed April 11, 2005.

2. Claims 1-20 are currently presented in this application. Claims 1 and 11 are independent claims.

Double Patenting

3. **Obviousness-type double patenting rejection**

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re van Ornurn, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Uogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington,418 F.2d 528, 163 USPQ 644 (CCPA 1969).

4. A timely filed terminal disclaimer in compliance with 37 C.F.R. ' 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. ' 1.78(d).

5. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of application 09/753,080 filed December 29, 2000.

7. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application claims a method for classifying a remote procedure call while the copending application claims a nearly identical method for classifying a remote method invocation. RMI is Java's remote procedure call mechanism.

8. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 1-6, 8-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Moore et al.** (U.S. 6, 408,342) in view of **Pettus** (U.S. 6, 223,217).

12. **As to claim 1**:

A. Moore teaches the invention substantially as claimed including a method for classifying a remote procedure call from a client system in a first network that initiates connections to a remote server in a second network via a classifying edge

router using a client and underlying remote procedure call transport code *(fig.2 and col.7, lines 20-40)*, the method comprising:

(i) detecting when a connection carrying high value data for the remote procedure call is created *(e.g., binding an RPC_Transport305 to the communication framework 257...creating the binding dynamically when the application 251 is executed; col. 8, lines 30-36 and 53-55);*

(ii) using a side channel to communicate flow information associated with the detected connection to the classifying edge router *(e.g., the RPC_Client 311 established a protocol-specific binding to the RPC_Server 315...the identifier for the target object...the communication channel; col. 10, lines 40-63 and col.13, lines 11-27);* the flow information including a port number associated with the communication *(e.g., this simple RPC_Transport 305 use...the port number of the remote TCP/IP endpoints; col.58, lines 1-6 and Table A-16),* the flow information provided to enable the classifying edge router to classify the remote procedure call as it is transferred from the first network to the second network *(fig.2 and col.7, lines 20-40);* and

(iii) incorporating the flow information into a differentiated services classification subsystem of the classifying edge router *(e.g., the apply () call may receive a Callinfo argument...that is a collection of Quality of Service (QoS) parameters... In initiating a call, the Stub 303 may put in a request for a particular QoS requirement... the protocol with the matching*

the Quality of Service required by the Stub 303 is selected; col.19, lines 15-46).

B. Moore does teach incorporating the flow information into a differentiated services classification subsystem of the classifying router. Moore, however, does not specifically teach associating a quality service level to the detected connection in accordance with the flow information.

C. Pettus teaches associating a quality service level to the detected connection in accordance with the flow information *(e.g., Specifically, the RPC objects comprise a "caller" object which, once instantiated, accepts service requests from client objects; see the abstract*).

D. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Pettus and Moore because Pettus' teaching would have provided the capability for efficiently implementing remote procedure call mechanism in client-server systems of distributed service networks so that service requests generated by a client object can be satisfied by a server object.

13. **As to claim 2:**

Moore teaches providing an API to calling applications; detecting when applications call the API *(col.7, line 63-col.8, line 8)*; and executing a remote procedure routine based on a call by an application *(col.11, lines 51-56*), the remote procedure routing including forwarding the flow information to the classifying edge router via the side channel *(col.12, lines 3-58)*.

14. **As to claim 3**:

Moore teaches accessing a remote procedure call API *(e.g., in creating a remote procedure call, the client 301, using a defined applications program interface... execute in the first process 101a; col.8, lines 53-56*); and the API provided to calling applications includes functionality duplicative of remote procedure call API functionality *(col.8, line 56-col.9, line 5).*

15. **As to claim 4:**

Moore teaches accessing a remote procedure call API *(e.g., in creating a remote procedure call, the client 301, using a defined applications program interface... execute in the first process 101a; col.8, lines 53-56*); and the API provided to calling applications presents an interface duplicative of the remote procedure call API to calling applications *(see fig.3 and the associated text).*

16. **As to claim 5:**

Moore teaches obtaining flow information from an application call to the API (*col.7, line 63-col.8, line 8*; and providing the flow information to the classifying router via the side channel (*col.10, lines 54-65; and col. 13, lines 11-27).*

17. **As to claim 6:**

Moore teaches Media Access Control and Internet Protocol addresses *(e.g., location addresses; col.17, lines 22-35)* and MAC and IP port numbers *(e.g., port number; col.17, lines 22-35),* and TCP protocol type for the connection *(e.g., TCP/IP connection; col.7, lines 12-19 and col.22, lines 1-11).*

18. **As to claim 8**:

It includes the same limitations as claim 6 above, and is similarly rejected under the same rationale.

19. **As to claim 9:**

Moore teaches using the flow information to determine a differentiated services classification for the connection *(col.19 lines 15-24)*; and marking traffic delivered to the connection by the classifying router based on the classification *(col.19 line 30-46)*.

20. **As to claim 10:**

Moore teaches detecting the identity of the client making the remote procedure call, the flow information further containing this detected identity *(col.8, lines 59-62 and col.9, lines 34-41)*.

21. **As to claims 11-16 and 18-20**:

Note the rejection of claims 1-6 and 8-10 above. Claims 11-16 and 18-20 are the same as claims 1-6 and 8-10, except claims 11-16 and 18-20 are apparatus claims and claims 1-6 and 8-10 are method claims.

22. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Moore** in view of in view of **Pettus** as applied to claims 1 and 11 above and further in view of **Riddle et al.**

23. **As to claim 7:**

A. The combination of Moore and Pettus does not explicitly teach a *Common Gateway Interface* script.

B. Riddle teaches a CGI script (*e.g., A Common Gateway Interface (CGI) script col.6, lines 43-62*).

C. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Riddle and Moore as modified by Pettus because Riddle's teaching would have provided the capability for enabling information from user clients to be acted upon by a web server.

24. **As to claim 17:**

Note the discussion of claim 7 above for rejection.

Response to Arguments

25. Applicant's arguments filed April 11, 2005 have been fully considered but they are not persuasive.

26. In the remarks, Applicant argued in substance that (a) the present invention overcomes the problems...neither the reference addresses the problem of overcoming QoS recognition difficulties associated RPC requests span multiple networks; (b) motivation is unsupported by the references.

27. Examiner respectfully traverses Applicant's remarks.

(i) As to point (a), the claims do not appear to clarify how "the present invention overcomes the problems. Claimed subject matter, not the specification is the measure of the invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art, In re Self, 213 USPQ 1 (CCPA

1982), In re Priest, 199 USPQ 11 (1978). During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." In re Hyatt 21 1 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

(ii) As to point (b), Examiner notes that the test for the relevance of a cited combination of references is: "whether the teachings of the prior art, taken as a whole, would have made obvious the claimed invention," *In re Gorman*, 933 F.2d at 986, 18 USPQ2d at 1888. Subject matter is unpatentable under section 103 if it 'would have been obvious ... to a person having ordinary skill in the art.' While there must be some teaching, reason, suggestion, or motivation to combine existing elements to produce the claimed device, it is not necessary that the cited references or prior art specifically suggest making the combination: *In re Nilssen*, 851 F.2d 1401, 1403, 7 USPQ2d 1500, 1502 (Fed. Cir. 1988)." Such suggestion or motivation to combine prior art teachings can derive solely from the existence of a teaching, which one of ordinary skill in the art would be presumed to know, and the use of that teaching to solve the same [or] similar problem which it addresses. *In re Wood*, 599 F.2d 1032, 1037, 202 USPQ 171, 174 (CCPA 1979). "In sum, it is off the mark for litigants to argue, as many do, that an invention cannot be held to have been obvious unless a suggestion to combine prior art

teachings is found in a specific reference." *In re Oetiker*, 24 USPQ2d 1443 (CAFC 1992).

Conclusion

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Any inquiry or a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272- 3765. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Meng-Ai An can be reached on (571) 272-3756.

33. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
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vhn

ST JOHN COURTENAY III
PRIMARY EXAMINER